

54-7-1. Settlement -- Limitation of issues.

(1) Informal resolution, by agreement of the parties, of matters before the commission is encouraged as a means to:

- (a) resolve disputes while minimizing the time and expense that is expended by:
 - (i) public utilities;
 - (ii) the state; and
 - (iii) consumers;
- (b) enhance administrative efficiency; or
- (c) enhance the regulatory process by allowing the commission to concentrate on those issues that adverse parties cannot otherwise resolve.

(2) (a) The commission may approve any agreement after considering the interests of the public and other affected persons to use a settlement proposal to resolve a disputed matter.

(b) The commission shall reserve to the parties the right to maintain appropriate confidentiality in the negotiation process even when the commission uses a settlement proposal to resolve a disputed matter.

(3) (a) At any time before or during an adjudicative proceeding before the commission, the parties, between themselves or with the commission or a commissioner, may engage in settlement conferences and negotiations.

(b) In accordance with this Subsection (3), the commission may adopt any settlement proposal entered into by two or more of the parties to an adjudicative proceeding.

(c) The commission shall notify all parties to an adjudicative proceeding of the terms of any settlement proposal related to the adjudicative proceeding.

(d) (i) The commission may adopt a settlement proposal if:

(A) the commission finds that the settlement proposal is just and reasonable in result; and

(B) the evidence, contained in the record, supports a finding that the settlement proposal is just and reasonable in result.

(ii) When considering whether to adopt a settlement proposal, the commission shall consider the significant and material facts related to the case.

(e) (i) The commission may adopt a settlement proposal related to an adjudicative proceeding at any stage of the adjudicative procedure.

(ii) The commission shall conduct a hearing before adopting a settlement proposal if requested by:

(A) any party initiating the adjudicative proceeding;

(B) any party against whom the adjudicative proceeding is initiated; or

(C) an intervening party to the adjudicative proceeding.

(f) The commission shall accept or reject a settlement proposal within a reasonable time.

(4) In cases or procedures involving rate increases as defined in Section 54-7-12, the commission may limit the factors and issues to be considered in its determination of just and reasonable rates.

Amended by Chapter 200, 2003 General Session

54-7-1.5. Communications between commission personnel and parties restricted.

No member of the Public Service Commission, administrative law judge, or commission employee who is or may reasonably be expected to be involved in the decision making process, shall make or knowingly cause to be made to any party any communication relevant to the merits of any matter under adjudication unless notice and an opportunity to be heard are afforded to all parties. No party shall make or knowingly cause to be made to any member of the commission, administrative law judge, or commission employee who is or may reasonably be expected to be involved in the decision making process, an ex parte communication relevant to the merits of any matter under adjudication. Any member of the commission, administrative law judge or commission employee who receives an ex parte communication shall place the communication into the public record of the proceedings and afford all parties an opportunity to comment on the information.

Enacted by Chapter 246, 1983 General Session

54-7-2. Process -- Service -- Fees.

The process issued by the commission or any commissioner shall extend to all parts of the state, and may be served by any person authorized to serve process of courts of record, or by any person designated for that purpose by the commission or a commissioner. The person executing any such process shall receive such compensation as may be allowed by the commission, not to exceed the fees prescribed by law for similar services in civil actions, and such fees shall be paid in the same manner as provided herein for payment of the fees of witnesses.

No Change Since 1953

54-7-3. Subpoena -- Witness fees -- Depositions.

(1) (a) The commission and each commissioner may administer oaths, certify to all official acts, and issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents, and other evidence in any inquiry, investigation, hearing, or proceeding in any part of the state.

(b) (i) Each witness who appears by order of the commission or a commissioner shall receive the same fees and mileage for his attendance that are allowed by law to a witness in the district court.

(ii) The party at whose request the witness is subpoenaed shall pay the witness and mileage fee.

(iii) When any witness who has not been required to attend at the request of any party is subpoenaed by the commission, his fees and mileage shall be paid from the funds appropriated for the use of the commission in the same manner as other expenses of the commission are paid.

(iv) Any witness subpoenaed, except one whose fees and mileage may be paid from the funds of the commission, may at the time of service, demand the fee to which he is entitled for travel to and from the place at which he is required to appear and one day's attendance.

(v) If the witness demands the fees at the time of service and they are not paid at that time, he is not required to attend the hearing.

(vi) All fees or mileage to which any witness is entitled under the provisions of this section may be collected by action instituted by the person to whom the fees are payable.

(vii) No witness furnished with free transportation receives mileage for the distance he may have traveled.

(2) The commission or any commissioner or any party may in any investigation before the commission cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for depositions in civil actions in the district courts of this state, and may compel the attendance of witnesses and the production of books, waybills, documents, papers, and accounts.

Amended by Chapter 161, 1987 General Session

54-7-4. Copies, competent evidence.

Copies of any official documents or orders filed or deposited according to law in the office of the commission, certified by a commissioner or by the secretary or the assistant secretary under the official seal of the commission to be true copies of the originals, shall be evidence in the same manner as the originals.

No Change Since 1953

54-7-5. Orders and certificates to be in writing and entered on records of commission -- Recordation.

Every order, authorization or certificate issued or approved by the commission under any provision of this title shall be in writing and entered on the records of the commission. Any such order, authorization or certificate, or a copy thereof or a copy of the record of any such order, authorization or certificate certified by a commissioner or by the secretary or the assistant secretary under the official seal of the commission to be a true copy of the original, may be recorded in the office of the recorder of any county in which is located the principal place of business of any public utility affected thereby or in which is situated any property of any such public utility, and such record shall impart notice of its provisions to all persons. A certificate under the seal of the commission that any such order, authorization or certificate has not been modified, stayed, suspended or revoked may also be recorded in the same manner and with like effect.

No Change Since 1953

54-7-6. Fees.

(1) The commission shall charge and collect the following fees: for filing applications for certificates of convenience and necessity, \$100 each; for copies of papers and records not required to be certified or otherwise authenticated by the commission, 15 cents for each folio; for certified copies of official documents and orders filed in its office, 20 cents for each folio, and \$2 for every certificate under seal affixed

thereto; for certifying a copy of any report made by a public utility, \$2; for each certified copy of the annual report of the commission, \$3; for certified copies of evidence and proceedings before the commission, 50 cents for each folio in the original copy and 25 cents for each folio in the carbon copies.

(2) Fees may not be charged or collected for copies of papers, records, or official documents, except certified copies of evidence and proceedings referred to in this chapter, furnished to public officers for use in their official capacity, or for the annual reports of the commission in the ordinary course of distributions. However, the commission may fix reasonable charges for publications issued under its authority.

(3) All fees charged and collected under this section shall be paid into the treasury of the state to the credit of the funds appropriated for the use of the commission, but fees for certified copies of evidence and proceedings before the commission which are reported by a shorthand reporter may be collected and retained by the official shorthand reporter of the commission pursuant to rules prescribed by the commission.

Amended by Chapter 101, 1988 General Session

54-7-7. Books and records of utilities subject to inspection.

The commission, each commissioner and each officer and person employed by the commission shall have the right at any and all times to inspect the accounts, books, papers and documents of any public utility, and the commission, each commissioner and any officer of the commission or any employee authorized to administer oaths shall have power to examine under oath any officer, agent or employee of any public utility in relation to the business and affairs of said public utility; provided, that any person other than a commissioner or an officer of the commission demanding such inspection shall produce under the hand and seal of the commission his authority to make such inspection; and provided further, that written record of the testimony or statement so given under oath shall be made and filed with the commission.

No Change Since 1953

54-7-8. Offices for utility's books and records -- Production for examination.

(1) Each public utility shall have an office in a county of this state in which its property or some portion thereof is located, and shall keep in said office all such books, accounts, papers and records as shall be required by the commission to be kept within this state. No books, accounts, papers or records required by the commission to be kept within this state shall be at any time removed from the state except upon such conditions as may be prescribed by the commission.

(2) The commission may require, by order served on any public utility in the manner provided herein for the service of orders, the production within this state at such time and place as it may designate of any books, accounts, papers or records kept by said public utility in any office or place without this state, or at its option verified copies in lieu thereof, so that an examination thereof may be made by the commission or under its direction.

No Change Since 1953

54-7-9. Complaints against utilities -- Scope.

(1) When any public utility violates any provision of law or any order or rule of the commission:

- (a) the commission may file a notice of agency action; or
- (b) any person, corporation, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural, or manufacturing organization or association, or any body politic or municipal corporation may file a request for agency action.

(2) The notice or request shall specify the act committed or omitted by the public utility that is claimed to be in violation of the law or a rule or order of the commission.

(3) No request for agency action shall be entertained by the commission concerning the reasonableness of any rates or charges of any gas, electrical, water, sewerage, or telephone corporation, unless the request is signed by:

- (a) the mayor, the president or chairman of the board of trustees, or the commissioners, or a majority of the council, commission, or other legislative body of the city, county, or town within which the alleged violation occurred; or
- (b) by not less than 25 consumers or purchasers, or prospective consumers or purchasers, of the gas, electricity, water, sewerage, or telephone service.

(4) The commission need not dismiss any complaint because of the absence of direct damage to the complainant.

Amended by Chapter 92, 1987 General Session

Amended by Chapter 161, 1987 General Session

54-7-10. Orders on hearings -- Time effective.

(1) Orders of the commission shall take effect and become operative on the date issued, except as otherwise provided in the order.

(2) They shall continue in force for the period designated in the order, or until changed or abrogated by the commission.

Amended by Chapter 161, 1987 General Session

54-7-11. Complaints by utilities -- Procedure.

Any public utility may request agency action by the commission on any of the grounds upon which requests for agency action are allowed to be filed by other parties. The commission shall follow the same procedure as in other cases.

Amended by Chapter 161, 1987 General Session

54-7-12. Rate increase or decrease -- Procedure -- Effective dates -- Electrical or telephone cooperative.

(1) As used in this section:

- (a) (i) "Base rates" means those charges included in a public utility's generally

applicable rate tariffs, including:

- (A) a fare;
 - (B) a rate;
 - (C) a rental;
 - (D) a toll; or
 - (E) any other charge generally applicable to a public utility's rate tariffs.
- (ii) Unless included by a commission order, "base rates" does not include

charges included in:

- (A) a deferred account;
- (B) a balancing account;
- (C) a major plant addition surcharge;
- (D) a major plant addition surcredit;
- (E) a special contract; or
- (F) a public utility program offering.

(b) (i) "Complete filing" means an application filed by a public utility that substantially complies with minimum filing requirements established by the commission, by rule, for a general rate increase or decrease.

(ii) The commission shall within 180 days after March 25, 2009 create and finalize rules concerning the minimum requirements to be met for an application to be considered a complete filing.

(c) "General rate decrease" means:

- (i) any direct decrease to a public utility's base rates; or
- (ii) any modification of a classification, contract, practice, or rule that decreases a public utility's base rates.

(d) "General rate increase" means:

- (i) any direct increase to a public utility's base rates; or
- (ii) any modification of a classification, contract, practice, or rule that increases a public utility's base rates.

(2) (a) A public utility that files for a general rate increase or general rate decrease shall file a complete filing with the commission setting forth the proposed rate increase or decrease.

(b) (i) For purposes of this Subsection (2), a public utility's application for a general rate increase or decrease shall be considered a complete filing unless within 30 days after the day on which the commission receives the public utility's application, the commission issues an order describing information that the public utility must provide for the application to be considered a complete filing.

(ii) Subject to Subsection (2)(b)(iii) and within 14 days after the day on which the application is received by the commission, a party or a person may file a motion to challenge whether an application for a general rate increase or decrease is a complete filing.

(iii) A party or a person may not file a motion described in Subsection (2)(b)(ii) unless the person or party has first filed a motion to intervene with the commission.

(c) If, in accordance with Subsection (2)(b)(i), the commission issues an order that an application is not a complete filing, the commission shall:

- (i) determine the materiality of an application deficiency; and
- (ii) (A) if the deficiencies are not material, issue an order that the 240-day period

described in Subsection (3)(a) shall continue without delay or be suspended and resume when the public utility files the required information; or

(B) if the deficiencies are material, issue an order that the 240-day period described in Subsection (3)(a) shall start over when the public utility files the required information.

(d) (i) The commission shall, after reasonable notice, hold a hearing to determine whether the proposed rate increase or decrease, or some other rate increase or decrease, is just and reasonable.

(ii) If a rate decrease is proposed by a public utility, the commission may waive a hearing unless it seeks to suspend, alter, or modify the rate decrease.

(e) Except as otherwise provided in Subsection (2)(d), (3), or (4), a proposed rate increase or decrease is not effective until after completion of the hearing and issuance of a final order by the commission concerning the proposed increase or decrease.

(3) (a) Within 240 days after a public utility submits a complete filing, the commission shall issue a final order to:

- (i) grant the proposed general rate increase or decrease;
- (ii) grant a different general rate increase or decrease; or
- (iii) deny the proposed general rate increase or decrease.

(b) If the commission does not issue a final written order within 240 days after the public utility submits a complete filing in accordance with Subsection (3)(a):

- (i) the public utility's proposed rate increase or decrease is final; and
- (ii) the commission may not order a refund of any amount already collected or returned by the public utility under Subsection (4)(a).

(4) (a) (i) A request for interim rates shall be made within 90 days after the day on which a public utility files a complete filing for a general rate increase or a general rate decrease.

(ii) The commission, on its own initiative or in response to an application by a public utility or other party, may, after a hearing, allow any rate increase or decrease proposed by a public utility, or a reasonable part of the rate increase or decrease, to take effect on an interim basis within 45 days after the day on which the request is filed, subject to the commission's right to order a refund or surcharge.

(iii) The evidence presented in the hearing held pursuant to this Subsection (4) need not encompass all issues that may be considered in a rate case hearing held pursuant to Subsection (2)(d), but shall establish an adequate prima facie showing that the interim rate increase or decrease is justified.

(b) The commission may, after a hearing, issue a final order before the expiration of 240 days after the day on which the public utility files a complete filing establishing the utility's revenue requirement and fixing the utility's allowable rates before the commission determines the final allocation of the increase or decrease among categories of customers and classes of service.

(c) (i) If the commission in the commission's final order on a public utility's revenue requirement finds that the interim increase ordered under Subsection (4)(a)(ii) exceeds the increase finally ordered, the commission shall order the public utility to refund the excess to customers.

(ii) If the commission in the commission's final order on a public utility's revenue

requirement finds that the interim decrease ordered under Subsection (4)(a)(ii) exceeds the decrease finally ordered, the commission shall order a surcharge to customers to recover the excess decrease.

(5) (a) Notwithstanding any other provisions of this title, any schedule, classification, practice, or rule filed by a public utility with the commission that does not result in any rate increase shall take effect 30 days after the date of filing or within any lesser time the commission may grant, subject to its authority after a hearing to suspend, alter, or modify that schedule, classification, practice, or rule.

(b) When the commission suspends a schedule, classification, practice, or rule, the commission shall hold a hearing on the schedule, classification, practice, or rule before issuing its final order.

(c) For purposes of this Subsection (5), any schedule, classification, practice, or rule that introduces a service or product not previously offered may not result in a rate increase.

(6) Notwithstanding any other provision of this title, whenever a public utility files with the commission any schedule, classification, practice, or rule that does not result in an increase in any rate, fare, toll, rental, or charge, the schedule, classification, practice, or rule shall take effect 30 days after the date of filing or at any earlier time the commission may grant, subject to the authority of the commission, after a hearing, to suspend, alter, or modify the schedule, classification, practice, or rule.

(7) This section does not apply to any rate changes of an electrical or telephone cooperative that meets all of the requirements of this Subsection (7).

(a) (i) The cooperative is organized for the purpose of either distributing electricity or providing telecommunication services to its members and the public at cost.

(ii) "At cost" includes interest costs and a reasonable rate of return as determined by the cooperative's board of directors.

(b) The cooperative's board of directors and any appropriate agency of the federal government have approved the rate increase or other rate change and all necessary tariff revisions reflecting the increased rate or rate change.

(c) Before implementing any rate increases, the cooperative has held a public meeting for all its customers and members. The cooperative shall mail a notice of the meeting to all of the cooperative's customers and members not less than 10 days prior to the date that the meeting is held.

(d) The cooperative has filed its tariff revisions reflecting the rate increase or other rate change with the commission, who shall make the tariffs available for public inspection.

(8) Notwithstanding Subsections (2) and (4), the procedures for implementing a proposed rate increase by a telephone corporation having less than 30,000 subscriber access lines in the state are provided in this Subsection (8).

(a) (i) The proposed rate increase by a telephone corporation subject to this Subsection (8) may become effective on the day the telephone corporation files with the commission the proposed tariff revisions and necessary information to support a determination by the commission that the proposed rate increase is just and reasonable.

(ii) The telephone corporation shall notify the commission and all potentially

affected access line subscribers of the proposed rate increase 30 days before filing the proposed rate increase or change.

(b) (i) The commission may investigate whether the proposed rate increase is just and reasonable.

(ii) If the commission determines, after notice and hearing, that the rate increase is unjust or unreasonable in whole or in part, the commission may establish the rates, charges, or classifications that the commission finds to be just and reasonable.

(c) The commission shall investigate and hold a hearing to determine whether any proposed rate increase is just and reasonable if 10% or more of the telephone corporation's potentially affected access line subscribers file a request for agency action requesting an investigation and hearing.

Amended by Chapter 319, 2009 General Session

54-7-12.1. Depreciation expense.

In determining the depreciation expense of a telephone corporation in any proceeding under Section 54-7-12, the commission shall consider all relevant factors, including the alteration of asset lives to better reflect changes in the economic life of plant and equipment used to provide telecommunications services. A relevant factor to consider shall be the asset lives of existing and emerging competitive telecommunications providers. Nevertheless, the commission shall retain the authority to determine the depreciation expense of telecommunications corporations for ratemaking purposes.

Enacted by Chapter 269, 1995 General Session

54-7-12.8. Electric energy efficiency and conservation tariff.

(1) As used in this section, "demand side management" means activities or programs that promote electric energy efficiency or conservation or more efficient management of electric energy loads.

(2) As provided in this section, the commission may approve a tariff under which an electrical corporation includes a line item charge on its customers' bills to recover costs incurred by the electrical corporation for demand side management.

(3) Each electrical corporation proposing a tariff under this section shall, before submitting the tariff to the commission for approval, seek and receive input from:

- (a) the Division of Public Utilities;
- (b) the Office of Consumer Services created in Section 54-10a-201; and
- (c) other interested parties.

(4) Before approving a tariff under this section, the commission shall hold a hearing if:

(a) requested in writing by the electrical corporation, a customer of the electrical corporation, or any other interested party within 15 days after the tariff filing; or

(b) the commission determines that a hearing is appropriate.

(5) The commission may approve a tariff under this section either with or without a provision allowing an end-use customer to receive a credit against the charges imposed under the tariff for electric energy efficiency measures that:

(a) the customer implements or has implemented at the customer's expense;
and

(b) qualify for the credit under criteria established by the Utah Public Service Commission.

(6) In approving a tariff under this section, the commission may impose whatever conditions or limits it considers appropriate, including a maximum annual cost.

(7) Unless otherwise ordered by the commission, each tariff under this section approved by the commission shall take effect no sooner than 30 days after the electrical corporation files the tariff with the commission.

Amended by Chapter 237, 2009 General Session

54-7-12.9. Gross receipts tax decrease on electrical corporations -- Tariffs -- Procedure.

(1) As used in this section:

(a) (i) "electrical corporation" includes every corporation, cooperative association, and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any electric plant, or in any way furnishing electric power for public service or to its consumers or members for domestic, commercial, or industrial use, within this state, that:

(A) pays property taxes under Title 59, Chapter 2, Property Tax Act; and

(B) is subject to rate regulation by the commission; and

(ii) "electrical corporation" does not include independent energy producers, or electricity that is generated on or distributed by the producer solely for the producer's own use, the use of the producer's tenants, or for the use of members of an association of unit owners formed under Title 57, Chapter 8, Condominium Ownership Act, and not for sale to the public generally; and

(b) "gross receipts tax" means the tax:

(i) imposed by Title 59, Chapter 8a, Gross Receipts Tax on Electrical Corporations Act; and

(ii) repealed by Laws of Utah 2006, Chapter 221, Section 5.

(2) An electrical corporation shall:

(a) file new tariffs with the commission on or before July 31, 2006 as part of its 2006 general rate case revenue requirement:

(i) reflecting the decrease in the electrical corporation's rates as a result of the repeal of the gross receipts tax by Laws of Utah 2006, Chapter 221, Section 5; and

(ii) spreading the amount of the decrease described in Subsection (2)(a)(i) among all classes of the electrical corporation's customers on the same basis that the gross receipts tax was allocated to each class of the electrical corporation's customers under the rates effective on the day on which the rate determined by the commission take effect under the electrical corporation's 2006 general rate case filed on or before September 1, 2006; and

(b) on or before the day on which the electrical corporation files new tariffs with the commission under Subsection (2)(a), file with the commission a complete report of the calculation of the allocation required by this section.

54-7-13.4. Alternative cost recovery for major plant addition -- Procedure.

(1) As used in this section:

(a) (i) "Complete filing" means an application filed by a gas corporation or electrical corporation that substantially complies with minimum filing requirements established by the commission, by rule, for cost recovery of a major plant addition.

(ii) The commission shall within 180 days after March 25, 2009 create and finalize rules concerning the minimum requirements to be met for an application to be considered a complete filing.

(b) "In-service date" means the first day that a gas corporation or an electrical corporation is no longer allowed to accrue an allowance for funds used during construction for a major plant addition.

(c) "Major plant addition" means any single capital investment project of a gas corporation or an electrical corporation that in total exceeds 1% of the gas corporation's or electrical corporation's rate base, based on the gas corporation's or electrical corporation's most recent general rate case determination, that is:

(i) used to serve Utah customers; and

(ii) assigned or allocated to Utah.

(2) A gas corporation or an electrical corporation may file with the commission a complete filing for cost recovery of a major plant addition if the commission has, in accordance with Section 54-7-12, entered a final order in a general rate case proceeding of the gas corporation or electrical corporation within 18 months of the projected in-service date of a major plant addition.

(3) (a) A gas corporation or an electrical corporation may not file for cost recovery of a major plant addition more than 150 days before the projected in-service date of the major plant addition.

(b) If the commission determines that the gas corporation or electrical corporation has not submitted a complete filing for cost recovery of a major plant addition, the commission shall determine:

(i) what information the electrical corporation or gas corporation needs to provide to the commission; and

(ii) the materiality of an application deficiency.

(c) With respect to the applicable 90 or 150-day time period under Subsection (4) for the commission to enter an order as described in Subsection (4)(a)(iii), the commission may:

(i) if the deficiencies are not material:

(A) continue without delay; or

(B) suspend the applicable 90 or 150-day time period and resume when the electrical corporation or gas corporation has filed the required information; or

(ii) if the deficiencies are material, start the applicable 90 or 150-day time period over when the electrical corporation or gas corporation has filed the required information.

(4) (a) The commission shall:

(i) review the application for cost recovery of a major plant addition;

(ii) after a hearing, approve, approve with conditions, or deny cost recovery of

the major plant addition; and

(iii) enter an order on cost recovery of a major plant addition within:

(A) 90 days after the day on which a complete filing is made with respect to a significant energy resource approved by the commission under Section 54-17-302 or resource decision under Section 54-17-402; or

(B) 150 days after the day on which a complete filing is made for any other major plant addition.

(b) (i) If the commission approves cost recovery of a major plant addition, the commission shall determine the state's share of projected net revenue requirement impacts of the major plant addition, including prudently-incurred capital costs and other reasonably projected costs, savings, and benefits.

(ii) The gas corporation or electrical corporation shall have the burden to prove a major plant addition's impacts as described in Subsection (4)(b)(i).

(c) If the commission has previously issued an order and approved the major plant addition as a significant energy resource under Section 54-17-302 or resource decision under Section 54-17-402, the commission shall presume the prudence of the utility's capital costs up to the projected costs specified in the commission's previous significant energy resource order or resource decision order.

(5) If the commission approves or approves with conditions cost recovery of a major plant addition, the commission shall do one or all of the following:

(a) subject to Subsection (6)(c), authorize the gas corporation or electrical corporation to defer the state's share of the net revenue requirement impacts of the major plant addition for recovery in general rate cases; or

(b) adjust rates or otherwise establish a collection method for the state's share of the net revenue requirement impacts that will apply to the appropriate billing components.

(6) (a) Deferral or collection of the state's share of the net revenue requirement impacts of a major plant addition under this section shall commence upon the later of:

(i) the day on which a commission order is issued approving the deferral or collection amount; or

(ii) the in-service date of the major plant addition.

(b) The deferral described in this section shall terminate upon a final commission order that provides for recovery in rates of all or any part of the net revenue requirement impacts of the major plant addition.

(c) If the commission authorizes deferral under Subsection (5)(a), the amount deferred shall accrue a carrying charge on the net revenue requirement impacts as determined by the commission.

Enacted by Chapter 319, 2009 General Session

54-7-13.5. Energy balancing accounts.

(1) As used in this section:

(a) "Base rates" is as defined in Subsection 54-7-12(1).

(b) "Energy balancing account" means an electrical corporation account for some or all components of the electrical corporation's incurred actual power costs, including:

- (i) (A) fuel;
- (B) purchased power; and
- (C) wheeling expenses; and
- (ii) the sum of the power costs described in Subsection (1)(b)(i) less wholesale revenues.

(c) "Gas balancing account" means a gas corporation account to recover on a dollar-for-dollar basis, purchased gas costs, and gas cost-related expenses.

(2) (a) The commission may authorize an electrical corporation to establish an energy balancing account.

(b) An energy balancing account shall become effective upon a commission finding that the energy balancing account is:

- (i) in the public interest;
- (ii) for prudently-incurred costs; and
- (iii) implemented at the conclusion of a general rate case.

(c) An electrical corporation:

(i) may, with approval from the commission, recover costs under this section through:

- (A) base rates;
- (B) contract rates;
- (C) surcredits; or
- (D) surcharges; and

(ii) shall file a reconciliation of the energy balancing account with the commission at least annually with actual costs and revenues incurred by the electrical corporation.

(d) An energy balancing account may not alter:

- (i) the standard for cost recovery; or
- (ii) the electrical corporation's burden of proof.

(e) The collection method described in Subsection (2)(c)(i) shall:

- (i) apply to the appropriate billing components in base rates; and
- (ii) be incorporated into base rates in an appropriate commission proceeding.

(f) The collection of costs related to an energy balancing account from customers paying contract rates shall be governed by the terms of the contract.

(g) Revenues collected in excess of prudently incurred actual costs shall:

(i) be refunded as a bill surcredit to an electrical corporation's customers over a period specified by the commission; and

(ii) include a carrying charge.

(h) Prudently incurred actual costs in excess of revenues collected shall:

(i) be recovered as a bill surcharge over a period to be specified by the commission; and

(ii) include a carrying charge.

(i) The carrying charge applied to the balance in an energy balancing account shall be:

- (i) determined by the commission; and
- (ii) symmetrical for over or under collections.

(3) (a) The commission may:

(i) establish a gas balancing account for a gas corporation; and

(ii) set forth procedures for a gas corporation's gas balancing account in the gas corporation's commission-approved tariff.

(b) A gas balancing account may not alter:

(i) the standard of cost recovery; or

(ii) the gas corporation's burden of proof.

(4) (a) All allowed costs and revenues associated with an energy balancing account or gas balancing account shall remain in the respective balancing account until charged or refunded to customers.

(b) The balance of an energy balancing account or gas balancing account may not be:

(i) transferred by the electrical corporation or gas corporation; or

(ii) used by the commission to impute earnings or losses to the electrical corporation or gas corporation.

(c) An energy balancing account or gas balancing account that is formed and maintained in accordance with this section does not constitute impermissible retroactive ratemaking or single-issue ratemaking.

(5) This section does not create a presumption for or against approval of an energy balancing account.

Enacted by Chapter 319, 2009 General Session

54-7-13.6. Low-income assistance program.

(1) As used in this section, "eligible customer" means an electrical corporation or a gas corporation customer:

(a) that earns no more than:

(i) 125% of the federal poverty level; or

(ii) another percentage of the federal poverty level as determined by the commission by order; and

(b) whose eligibility is certified by the Utah Department of Workforce Services.

(2) A customer's income eligibility for the program described in this section shall be renewed annually.

(3) An eligible customer may not receive assistance at more than one residential location at any one time.

(4) Notwithstanding Section 54-3-8, the commission may approve a low-income assistance program to provide bill payment assistance to low-income residential customers of:

(a) an electrical corporation with more than 50,000 customers; or

(b) a gas corporation with more than 50,000 customers.

(5) (a) (i) Subject to Subsection (5)(a)(ii), low-income assistance program funding from each rate class may be in an amount determined by the commission.

(ii) Low-income assistance program funding described in Subsection (5)(a)(i) may not exceed 0.5% of the rate class's retail revenues.

(b) (i) Low-income assistance program funding for bill payment assistance shall be provided through a surcharge on the monthly bill of each Utah retail customer of the electrical corporation or gas corporation providing the program.

(ii) The surcharge described in Subsection (5)(b)(i) may not be collected from

customers currently participating in the low-income assistance program.

(c) (i) Subject to Subsection (5)(c)(ii), the monthly surcharge described in Subsection (5)(b)(i) shall be calculated as an equal percentage of revenues from all rate schedules.

(ii) The monthly surcharge described in Subsection (5)(b)(i) may not exceed \$50 per month for any customer, adjusted periodically as the commission determines appropriate for inflation.

(6) (a) An eligible customer shall receive a billing credit on the monthly electric or gas bill for the customer's residence.

(b) The amount of the billing credit described in Subsection (6)(a) shall be determined by the commission based on:

(i) the projected funding of the low-income assistance program;

(ii) the projected customer participation in the low-income assistance program;
and

(iii) other factors that the commission determines relevant.

(c) The monthly billing credit and the monthly surcharge shall be adjusted concurrently with the final order in a general rate increase or decrease case under Section 54-7-12 for the electrical corporation or gas corporation providing the program or as determined by the commission.

Amended by Chapter 212, 2012 General Session

54-7-14. Orders and decisions conclusive on collateral attack.

In all collateral actions or proceedings the orders and decisions of the commission which have become final shall be conclusive.

No Change Since 1953

54-7-14.5. Rescission or amendment of orders or decisions.

(1) The commission may, at any time after providing an affected utility notice and an opportunity to be heard, rescind, alter, or amend any order or decision made by the commission.

(2) An order rescinding, altering, or amending an original commission order or decision shall have the same effect on the public utility as the original order or decision.

Enacted by Chapter 319, 2009 General Session

54-7-15. Review or rehearing by commission -- Application -- Procedure -- Prerequisite to court action -- Effect of commission decisions.

(1) Before seeking judicial review of the commission's action, any party, stockholder, bondholder, or other person pecuniarily interested in the public utility who is dissatisfied with an order of the commission shall meet the requirements of this section.

(2) (a) After any order or decision has been made by the commission, any party to the action or proceeding, any stockholder, bondholder, or other party pecuniarily interested in the public utility affected may apply for rehearing of any matters

determined in the action or proceeding.

(b) An applicant may not urge or rely on any ground not set forth in the application in an appeal to any court.

(c) Any application for rehearing not granted by the commission within 20 days is denied.

(d) (i) If the commission grants any application for rehearing without suspending the order involved, the commission shall issue its decision on rehearing within 20 days after final submission.

(ii) If the commission fails to render its decision on rehearing within 20 days, the order involved is affirmed.

(e) Unless an order of the commission directs that an order is stayed or postponed, an application for review or rehearing does not excuse any corporation or person from complying with and obeying any order or decision of the commission.

(3) Any order or decision on rehearing that abrogates, changes, or modifies an original order or decision has the same effect as an original order or decision, but does not affect any right, or the enforcement of any right, arising from the original order or decision unless ordered by the commission.

(4) An order of the commission, including a decision on rehearing:

(a) has effect only with respect to a public utility that is an actual party to the proceeding in which the order is rendered; and

(b) does not determine any right, privilege, obligation, duty, constraint, burden, or responsibility with respect to a public utility that is not a party to the proceeding in which the order is rendered unless, in accordance with Subsection 63G-3-201(6), the commission makes a rule that incorporates the one or more principles of law that:

(i) are established by the order;

(ii) are not in commission rules at the time of the order; and

(iii) affect the right, privilege, obligation, duty, constraint, burden, or responsibility with respect to the public utility.

Amended by Chapter 347, 2009 General Session

54-7-17. Stay of commission's order or decision pending appeal.

(1) A petition for judicial review does not stay or suspend the operation of the order or decision of the commission.

(2) (a) The court may stay or suspend, in whole or in part, the operation of the commission's order or decision after at least three days' notice and after a hearing.

(b) If the court stays or suspends the order or decision of the commission, the order shall contain a specific finding, based upon evidence submitted to the court and identified by reference, that:

(i) great or irreparable damage will result to the petitioner absent suspension or a stay of the order; and

(ii) specifies the nature of the damage.

(3) (a) The court's order staying or suspending the decision of the commission is not effective until a supersedeas bond is executed, filed with, and approved by the commission (or approved, on review, by the court).

(b) The bond shall be payable to the state, and shall be sufficient in amount and

security to insure the prompt payment by the party petitioning for the review of:

(i) all damages caused by the delay in the enforcement of the order or decision of the commission; and

(ii) all money that any person or corporation is compelled to pay, pending the review proceedings, for transportation, transmission, product, commodity, or service in excess of the charges fixed by the order or decision of the commission.

(c) Whenever necessary to insure the prompt payment of damages and any overcharges, the court may order the party petitioning for a review to give additional security or to increase the supersedeas bond.

(4) (a) When the court stays or suspends the order or decision of the commission in any matter affecting rates, fares, tolls, rentals, charges, or classifications, it shall order the public utility affected to pay into court, or into some bank or trust company paying interest on deposits, all sums of money collected by the public utility that are greater than the sum a person would have paid if the order or decision of the commission had not been stayed or suspended.

(b) (i) Upon the final decision by the court, the public utility shall refund all money collected by it that exceeds the amount authorized by the court's final decision, together with interest if the money was deposited in a bank or trust company, to the persons entitled to the refund.

(ii) The commission shall prescribe the methods for distributing the refund.

(c) (i) If any of the refund money has not been claimed within one year from the final decision of the court, the commission shall publish notice of the refund:

(A) (I) once per week for two successive weeks in a newspaper of general circulation printed and published in the city and county of Salt Lake; and

(II) in any other newspapers that the commission designates; and

(B) in accordance with Section 45-1-101 for two successive weeks.

(ii) The notice shall state the names of the persons entitled to the money and the amount due each person.

(iii) All money not claimed within three months after the publication of the notice shall be paid by the public utility into the General Fund.

(5) When the court stays or suspends any order or decision lowering any rate, fare, toll, rental, charge, or classification, after the execution and approval of the supersedeas bond, the commission shall order the public utility affected to keep accounts, verified by oath, that show:

(a) the amounts being charged or received by the public utility; and

(b) the names and addresses of the persons to whom overcharges will be refundable.

Amended by Chapter 342, 2011 General Session

54-7-18. Preference of actions and proceedings on courts' calendars.

(1) The courts of this state shall consider, hear, and determine all actions and proceedings under this chapter, and all actions and proceedings to which the commission or the state of Utah is a party, in which any question arises under this title or under or concerning any order or decision of the commission before considering, hearing, or determining all other civil causes except election causes.

(2) If the commission requests it, the courts shall grant the same preference to the commission in any action or proceeding in which the commission is allowed to intervene.

Amended by Chapter 161, 1987 General Session

54-7-19. Valuation of utilities -- Procedure -- Findings conclusive evidence.

(1) (a) In determining the value, or revaluing the property of a public utility as required by Section 54-4-21, the commission may hold hearings.

(b) The commission may make a preliminary examination or investigation into the matters designated in this section and in Section 54-4-21 and may inquire into those matters in any other investigation or hearing.

(c) The commission may seek any available sources of information.

(d) (i) The evidence introduced at the hearing shall be reduced to writing and certified under the seal of the commission.

(ii) The findings of the commission, when properly certified under the seal of the commission, are admissible in evidence in any action, proceeding, or hearing before the commission, and before any court as conclusive evidence of the facts as stated.

(e) The commission's findings of facts can be controverted in a subsequent proceeding only by showing a subsequent change in conditions bearing upon the facts.

(2) (a) The commission may hold further hearings and investigations to make revaluations or to determine the value of any betterments, improvements, additions, or extensions made by any public utility.

(b) The commission may examine all matters that may change, modify, or affect any finding of fact previously made, and may make additional findings of fact to supplement findings of fact previously made.

Amended by Chapter 161, 1987 General Session

**54-7-20. Reparations -- Courts to enforce commission's orders --
Limitation of action.**

(1) When complaint has been made to the commission concerning any rate, fare, toll, rental or charge for any product or commodity furnished or service performed by any public utility, and the commission has found, after investigation, that the public utility has charged an amount for such product, commodity or service in excess of the schedules, rates and tariffs on file with the commission, or has charged an unjust, unreasonable or discriminatory amount against the complainant, the commission may order that the public utility make due reparation to the complainant therefor, with interest from the date of collection.

(2) If the public utility does not comply with the order for the payment of reparation within the time specified in such order, suit may be instituted in any court of competent jurisdiction to recover the same. All complaints concerning unjust, unreasonable or discriminatory charges shall be filed with the commission within one year, and those concerning charges in excess of the schedules, rates and tariffs on file with the commission shall be filed with the commission within two years, from the time such charge was made, and all complaints for the enforcement of any order of the

commission shall be filed in court within one year from the date of such order. The remedy in this section provided shall be cumulative and in addition to any other remedy or remedies under this title in case of failure of a public utility to obey an order or decision of the commission.

No Change Since 1953

54-7-21. Commission charged with enforcing laws -- Attorney general to aid.

The commission shall see that the provisions of the Constitution and statutes of this state affecting public utilities, the enforcement of which is not specifically vested in some other officer or tribunal, are enforced and obeyed, and that violations thereof are promptly prosecuted and penalties due the state therefor recovered and collected; and to this end it may sue in the name of the state of Utah. Upon request of the commission, it shall be the duty of the attorney general to aid in any investigation, hearing or trial under the provisions of this title and to institute and prosecute actions or proceedings for the enforcement of the provisions of the Constitution and statutes of this state affecting public utilities and for the punishment of all violations thereof.

Amended by Chapter 130, 1971 General Session

54-7-23. Penalties.

(1) This title shall not have the effect to release or waive any right of action by the state, the commission or any person for any right, penalty or forfeiture, which may have arisen or accrued or may hereafter arise or accrue under any law of this state.

(2) All penalties accruing under this title shall be cumulative and a suit for the recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or forfeiture, or be a bar to any criminal prosecution against any public utility, or any officer, director, agent or employee thereof, or any other corporation or person, or be a bar to the exercise by the commission of its power to punish for contempt.

No Change Since 1953

54-7-24. Injunction to stop violations or threatened violations.

Whenever the commission, or the Department of Transportation where the safety of public carriers is involved, shall be of the opinion that any public utility is failing or omitting, or is about to fail or omit, to do anything required of it by law, or by any order, decision, rule, direction or requirement of the commission, or where applicable, the department, or is doing anything, or is about to do anything, or is permitting anything, or is about to permit anything, to be done, contrary to or in violation of law or of any order, decision, rule, direction or requirement of the commission or department, it shall direct the commencement of an action or proceeding in the name of the state, for the purpose of having such violations or threatened violations stopped or prevented.

Amended by Chapter 9, 1975 Special Session 1

54-7-25. Violations by utilities -- Penalty.

(1) Any public utility that violates or fails to comply with this title or any rule or order issued under this title, in a case in which a penalty is not otherwise provided for that public utility, is subject to a penalty of not less than \$500 nor more than \$2,000 for each offense.

(2) Any violation of this title or any rule or order of the commission by any corporation or person is a separate and distinct offense. In the case of a continuing violation, each day's continuance of the violation shall be a separate and distinct offense.

(3) In construing and enforcing the provisions of this title relating to penalties, the act, omission, or failure of any officer, agent, or employee of any public utility acting within the scope of his official duties or employment shall in each case be deemed to be the act, omission, or failure of that public utility.

Amended by Chapter 131, 1989 General Session

54-7-26. Violations by officers or agents of utility -- Penalty.

Every officer, agent, or employee of any public utility who violates or fails to comply with, or who procures, aids, or abets any violation by any public utility of any provision of the Constitution of this state or of this title, or who fails to obey, observe, or comply with any order, decision, direction, demand, or requirement, or any part or provision thereof, of the commission, or who procures, aids, or abets any public utility in its failure to obey, observe, and comply with any order, decision, direction, demand, or requirement, or any part or provision thereof, in a case in which a penalty has not been provided for, the officer, agent, or employee is guilty of a class A misdemeanor.

Amended by Chapter 305, 2008 General Session

54-7-27. Violations by corporations other than utilities -- Penalty.

Every corporation, other than a public utility, which violates any provision of this title, or which fails to obey, observe or comply with any order, decision, rule, direction, demand or requirement, or any part or provision thereof, of the commission, in a case in which a penalty has not hereinbefore been provided for such corporation, is subject to a penalty of not less than \$500 nor more than \$2,000 for each and every offense.

No Change Since 1953

54-7-28. Violations by individuals -- Penalty.

Every person who, either individually, or acting as an officer, agent, or employee of a corporation other than a public utility, violates any provision of this title or fails to observe, obey, or comply with any order, decision, direction, demand, or requirement, or any part or provision thereof, of the commission, or who procures, aids, or abets any public utility in its violation of this title or in its failure to obey, observe, or comply with any order, decision, direction, demand, or requirement, or any part or portion thereof, in a case in which a penalty has not been provided for the person, is guilty of a class A misdemeanor.

Amended by Chapter 305, 2008 General Session

54-7-29. Actions to recover fines and penalties.

Actions to recover penalties under this title shall be brought in the name of the state of Utah. In any such action all penalties incurred up to the time of commencing the same may be sued for and recovered. All fines and penalties recovered by the state in any such action, together with cost thereof, shall be paid into the state treasury to the credit of the General Fund. Any such action may be compromised or discontinued on application of the commission upon such terms as the court shall approve and order.

No Change Since 1953

54-7-30. Interstate commerce -- Title does not apply.

Neither this title nor any provisions thereof, except when specifically so stated, shall apply to or be construed to apply to commerce with foreign nations or commerce among the several states of this Union, except insofar as the same may be permitted under the provisions of the Constitution of the United States and the acts of Congress.

No Change Since 1953